

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00770R

Parcel No. 180/00958-069-014

James Aslin,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on July 21, 2016. James Aslin was self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Polk County Board of Review.

James Aslin is the owner of a residential, one-story dwelling located at 2434 NW 75th Avenue, Ankeny. Built in 1999, it has 1648 square feet of above-grade finish and 1218 square-feet of living-quarter quality basement finish. It also has a three-car attached garage, a detached garage, an enclosed porch and open porch, and a deck. The site is 1.001 acres. (Ex. A).

The property's January 1, 2015, assessment was \$387,700, allocated as \$72,200 in land value and \$315,500 in improvement value. On his protest to the Board of Review, Aslin claimed the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review denied the petition. Aslin then appealed to PAAB.

Findings of Fact

James Aslin testified on his own behalf and asserts his land is not equitably assessed compared to other similar size sites in his development. He submitted nine properties in his development that he believes demonstrate his site is valued higher than other similar sites. (Ex. 1). The following chart is a summary of those properties.

Address	Site Size (Acre)	Site Size (SF)	2015 Assessed Site Value	AV/SF
Subject	1.001	43,621	\$72,200	\$1.655
2550 NW 75th Ave	1.846	80,411	\$60,200	\$0.749
2498 NW 75th Ave	1.164	50,698	\$53,200	\$1.049
2472 NW 75th Ave	2.551	111,137	\$67,500	\$0.607
2400 NW 75th Ave	1.490	64,904	\$56,600	\$0.872
2392 NW 75th Ave	1.619	70,524	\$65,400	\$0.927
2348 NW 75th Ave	1.616	70,385	\$57,900	\$0.823
2340 NW 75th Ave	2.035	88,664	\$62,200	\$0.702
2411 NW 75th Ave	0.923	40,188	\$49,300	\$1.227
2317 NW 75th Ave	0.967	42,105	\$50,600	\$1.202

Aslin pointed out that his site has a higher assessment, on a per-square-foot basis, than even larger sites in the immediate area. Aslin explained the sites on the south side of NW 75th Avenue, which is where his property is located, are heavily treed sites with rolling topography compared to the sites on the north side of the street that have more level lots and less tree coverage. The Board of Review submitted an aerial map that clearly shows the differences in tree coverage. (Ex. H).

Comparing these properties is difficult due to their non-uniform sizes and characteristics. With the exception of 2411 and 2317 NW 75th Avenue, all of the sites he submitted are located on the south side of NW 75th Avenue, like his property. The highlighted sites sit well off of NW 75th Avenue and, in some cases, behind other residential lots, which may affect their value. 2550 NW 75th Avenue is a corner lot and is adjacent to NW 26th Street, and this would likely affect its value.

The remaining site, 2498 NW 75th Avenue, is slightly larger than the subject is, but has a lower land assessment on a total and per-square-foot basis. The

improvements on that property consist of a one-story dwelling consisting of 1843 square-feet of above grade living area built in 2002. (Ex. 5). Aslin submitted only a portion of the property record card, so we are unable to fully verify 2498 NW 75th's comparability with the subject.

Aslin admitted the improvements of the properties he submitted are not comparable to his; but rather, he is focused on the inequity of the site value, not the total assessed values. There is no indication that any of the comparable properties submitted recently sold, and Aslin did not offer evidence of their market value. Aslin did not submit any evidence of the fair market value of his property, either as improved or just a site value, such an appraisal, comparable sales, or a cost analysis. This information is necessary to develop an assessment/sales ratio, which may be required to prevail on an equity claim.

Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified for the Board of Review. Rasmussen explained that assessments are based on the total value of an improved site; not just the components – land and improvements. She notes the area is improved with a mix style of homes that are custom built.

She explained the site values were developed using land tables, which is a tool used to value the land. Based on how the table is set up, a computer analysis uses the information to assign a value to the site. The table itself is imbedded in the program and not available for analysis. Rasmussen explained that based on this analysis, the sites are assigned a value, and within the calculation there is an option to add or subtract for amenities or deficiencies with the site. For example, she notes on Exhibit G that some of the sites have "no adjustment." However, other sites have an adjustment. These adjustments reflect the theory that site values are roughly 20% of the overall site value, and were applied to approximate this ratio. For example, the subject has an adjustment of "+40 Ex". She explained that is a calculation applied to the land value, but based on the overall value of the property.

The Board of Review offered four equity comparables of one-story homes with similar living area, grade, age, exterior appeal, and amenities. (Ex. D). These

properties are assessed from \$354,100 to \$404,000, or \$211.28 to \$235.29 per-square-foot. The subject is assessed within the range at \$387,700, or \$235.25 per-square-foot.

Ultimately, Rasmussen believes the total assessed value of the subject property is equitable; however, she does recognize the concerns raised by the property owner regarding his site value compared the site values of other properties located on the south side of NW 75th Avenue. She explained the Assessor's Office will reevaluate this development for the next assessment cycle.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Aslin's sole concern is the assessed value of the property's land. The Board of Review contends that the evaluation of an equity claim must consider the property as a whole. To this point, the IOWA REAL PROPERTY APPRAISAL MANUAL states:

When appraising real estate, the assessor must consider two separate entities; land, which is the nonwasting portion of the real estate; and improvements, which are the wasting portions subject to various forms of depreciation. Land and improvements are frequently valued separately so that the trends and factors affecting can be studied. However the final analysis for an improved property must be as a unit. 2-2, available at https://tax.iowa.gov/sites/files/idr/documents/2LANDVALUATIONSECTION_0.pdf.

This is consistent with the Iowa Courts that have concluded the “ultimate issue . . . [is] whether the *total values* affixed by the assessment roll were excessive or inequitable.” *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956) (emphasis added). In examining the evidence presented in this case, our primary concern is with the property's total assessment, encompassing the land and improvements.

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited

applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

We find Aslin has not established inequity in his assessment through either test. First, he focused solely on comparisons of land values and did not address the equity of the subject and his comparable properties as a unit. Second, no evidence was submitted to develop an assessment/sales ratio analysis, and no opinion of the subject property's market value was established complete the *Maxwell* analysis. The equity comparables submitted by the Board of Review show the subject is assessed within the range of the comparables on a total and per-square-foot basis.

Aslin appears to assert the site assessments have not been applied in a uniform manner. Rasmussen testified that the development's site values were based on a computer program/analysis with a common land table, and that subsequent adjustments were made to individual sites to arrive at an approximate ratio of 20% for the site value compared to the total value of the property. Although the evidence suggests that all of the sites were valued in a uniform manner, Rasmussen does believe there is an unexplained discrepancy that requires review of this particular development. As such, she notes the Assessor's Office will be re-evaluating the area and valuations for the next assessment cycle.

Considering the property as a whole, we find the evidence is insufficient to demonstrate the subject is inequitably assessed as compared to other like properties.

Order

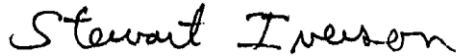
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial

review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

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